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ABSTRACT

The proposal that Harvard University sell its stock in American corporations in South Africa is discussed by the university's president. The proposal is based on the desire that the university respond as part of a pressure group using the leverage of purchases, endowment, and prestige as a university to push for social or political ends. Many years ago, Harvard adopted a policy of not investing in companies doing business in South Africa. Quite different considerations apply to the recent proposals concerning Harvard's policy as a share holder in American firms that carry out a small portion of their business in South Africa. It is felt that total divestment is neither a justifiable course of action for Harvard or a very promising way to help put an end to injustice in South Africa. Those who urge total divestment can make a plausible case only if they can show that all of the following propositions are likely to be correct: the withdrawal of American companies will help materially in overcoming apartheid and will contribute more than an effort on the part of American companies to improve wages, employment opportunities, and social conditions of nonwhite workers; selling Harvard's stock has a strong probability of persuading American firms to leave South Africa; divestment is a more effective inducement to withdrawal than continuing to vote on shares and communicate with management in other ways; and it is permissible for the Harvard Corporation to divert university resources to combat apartheid.

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Reflections on Divestment of Stock: An Open Letter to the Harvard Community

In my first letter on Harvard's ethical responsibilities, I discussed the reasons why universities have traditionally been reluctant to take formal positions on ethical and political issues arising in the outside world. These reasons include a belief that such positions will establish an orthodoxy that may inhibit intellectual freedom; a realization that universities cannot exert economic leverage to affect disputes beyond the campus without inviting outside pressure to influence academic policies; and a concern over the impropriety of diverting university resources away from the academic purposes for which they were entrusted.

These considerations do not mean that universities take no account of ethical values when they act as institutions. On the contrary, in carrying on its academic activities, Harvard is constantly responding to ethical considerations and social concerns. We devote thousands of hours to encouraging student recruitment and employment practices that will provide opportunities for people who have traditionally been overlooked or disadvantaged. We expend enormous efforts in raising and distributing funds to give every deserving student a chance to acquire a Harvard education regardless of financial means. We are continuously making collective efforts to develop and sustain a variety of academic programs that address problems of human suffering and social need. Among many examples are our population center, our program in arms control, and our institute to assist the economic development of poorer nations, as well as the massive efforts of our Schools of Medicine and Public Health to find ways to treat and eradicate every form of human disease.

Yet all these initiatives are carried out as part of the University's academic programs and are subject to traditional academic values and norms. The distinctive aspect of many of the proposals now before us is that they seek to have Harvard respond, not by academic means, but as part of a pressure group using the leverage of our purchases, our endowment, and our prestige as a university to push for social or political ends. These

efforts do not fall within our traditional educational activities and threaten to conflict with institutional restraints that have long been considered important to the preservation of academic values and pursuits.

As I discussed in my first letter, these restraints are important, but they are not absolute. For example, I do not agree with those who argue that universities should never buy and sell stock with any consideration in mind beyond their duty to increase the financial resources of the institution. Although trustees have a legal and moral obligation to enhance and conserve the university's resources, there are rare occasions when the very nature of a company's business makes it inappropriate for a university to invest in the enterprise. Suppose that Harvard were to acquire stock in a profitable South African company. Doing so would create serious moral problems. Harvard would become part owner of a firm whose profits would heavily depend upon the wages and working conditions brought about by the apartheid system. The investment would be attractive precisely because of its dependence on a system of employment rooted in injustice. The University would also be deliberately acquiring a continuing financial stake in the perpetuation of an immoral regime.

These objections led Harvard many years ago to adopt a policy of not investing in companies doing business primarily in South Africa. In following this practice, the University does not expect to induce such firms to cease their operations; it simply does not consider it proper to make investments in such enterprises.

In other instances, a firm in our portfolio may persist in particular forms of behavior that depart substantially from the ethical standards and values of the University. Under these circumstances, the normal and most effective course for us to pursue as part owner of the enterprise is to support shareholder resolutions opposing such behavior and to make our disapproval known in other ways to the management. Nevertheless, protracted efforts to persuade the company to change its ways may

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prove ineffective. In this event, Harvard may also choose to sell its shares—not because it believes that such action will force the company to alter its behavior but simply because the University will have lost confidence in the management of the company and will not wish to maintain an association with the firm. Such cases are not likely to arise with sufficient frequency to have any perceptible effect on the resources of the University or its ability to sustain the quality of its academic programs.

Quite different considerations apply to the recent proposals concerning Harvard's policy as a shareholder in American firms that carry out a small portion of their business in South Africa. As an investor in these companies, we have clearly declared our opposition to apartheid. We have refused to purchase certificates of deposit in banks that are making loans to the South African government, and we are considering shareholder resolutions on a case-by-case basis to decide whether to vote for withdrawal or to support efforts to improve the employment and social conditions of nonwhite workers. Nevertheless, we are now urged to go further by selling more than \$300 million in shares that we hold in American corporations doing business in South Africa.

These proposals stem from the belief that apartheid produces great suffering and injustice and that Harvard, by divesting, can both dissociate itself from evil and help to bring the evil to an end. I understand the feelings that lead members of this community to hope that Harvard will dramatize the extent of its disapproval by severing even the tangential, indirect connection with apartheid that derives from owning stock in companies doing a small portion of their business in South Africa. Nevertheless, I do not believe that total divestment is either a justifiable course of action for Harvard or a very promising way to help put an end to injustice in South Africa.

Total divestment would raise all the objections I discussed in my first letter. To the extent that such action is intended to generate pressure to force American firms out of South Africa, it tends to undermine the willingness of outside groups to respect the academic independence of the University. Divestment would also result in losses to the University that are hard to estimate precisely but would almost certainly run into millions of dollars. Finally, if Harvard took the initiative of selling all its stock in firms doing business in South Africa, pressure would undoubtedly arise to have us undertake the extraordinarily sensitive and difficult task of decid-

ing whether there are other regimes so immoral as to justify similar action.*

What arguments can be made in support of total divestment? Some have urged that a university should not invest in order to gain profits attributable to apartheid and to the cheap labor and discriminatory wage rates that apartheid brings about. This argument applies most clearly to the case of a company doing all or most of its business in South Africa. But Harvard does not hold shares in South African firms; our holdings are in *American* companies doing business in South Africa. Such corporations typically do less than one percent of their business in South Africa. The University does not invest in such companies *in order to* profit from apartheid; if anything, it buys shares *in spite of* South African operations because the firm as a whole represents an attractive investment.

One may still contend that universities should divest themselves of such stock, because a tiny portion of company dividends ultimately derives from the profits of doing business under an immoral regime. This argument reflects a hope that one can somehow achieve moral purity by separating oneself entirely from evil. Aspirations of this kind can be attacked for counseling us to run from evil rather than work to overcome it (for example, by voting our shares). Moreover, as a guide to ethical behavior such hopes are highly impractical. Unless we choose to live like hermits in the desert, we must all be linked in indirect and innumerable ways to the wrongs of the world—through the goods we buy, the taxes we pay, the services we use, the investments we make.

For Harvard, certainly, an effort to sever every link with South Africa would have severe consequences. To be consistent, the University would have to refrain from investing not only in firms doing busi-

* Many people believe that South Africa is a special case because it is virtually the only country that institutionalizes racism and officially confers a lower status on blacks and other nonwhite persons. Yet there are also serious critics who deplore apartheid but still do not believe that it is materially worse than the practices of other regimes engaging in torture and mass imprisonment or oppressing their people systematically on political, religious, or tribal grounds.

To explore these problems thoroughly would require extensive inquiries into the political regimes of many nations and would require us to draw very delicate lines. In view of the disadvantage of taking institutional positions on ethical and political issues, few undertakings would be more awkward than the task of determining which countries are so immoral as to justify a total ban on foreign investment. The burden would be substantial; the risk of making arbitrary and opportunistic distinctions would be great.

ness in South Africa but in each of the six thousand companies that trade with that country. American trade probably matters more to South Africa than American investment, and all companies that trade with South Africa benefit from apartheid either by paying prices which reflect exploitative wages or by receiving payments made possible by the apartheid system. Presumably, we should also look askance at admitting students from South Africa whenever the tuition they pay derives from money earned in that country. We should likewise reject donations from corporations, foundations, and private individuals if the gifts include any funds earned from South African investments. The administrative problems of implementing these prohibitions would be substantial, and the costs to students, faculty, and staff would be immense. This is a heavy price to pay in order to avoid the small portion of our dividends and other income that can be attributed to apartheid. Perhaps we should consider devoting an equivalent sum to scholarships for black South Africans, but it would be hard to justify a rule that would have us escape from the problems of apartheid by prohibiting all transactions involving the receipt of any funds derived from that country.

Most persons who urge the sale of stock probably do so, not for the reasons just discussed, but because they believe that divestment will help to end injustice. In the case of apartheid, for example, proponents hope that divestment will lead American companies to withdraw their operations from South Africa. Withdrawal, it is argued, will help to overcome apartheid either by forcing the government to change its policies or by provoking internal strife, or at least by removing economic interests which may inhibit Washington from imposing economic sanctions to protest the Afrikaner regime. Those who take this position must know that universities cannot actually exert much direct economic pressure against American corporations by selling their stock, because such action will scarcely depress the value of the shares, let alone force management to change its policies. But they may feel that divestment will result in adverse publicity, lead to other acts of protest, or somehow help create a climate of moral indignation that will eventually force companies to withdraw.

Having considered these arguments, I do not find them convincing. The action proposed is drastic. For reasons discussed below, I consider it highly unlikely that the action will produce any tangible and beneficial results.

In the first place, knowledgeable people in this country disagree on whether the withdrawal of American firms is a wise and effective way to bring about constructive change in South Africa. In the heat of the debate, advocates of each position tend to talk past each other by emphasizing the weaknesses in the opposing view without acknowledging the deficiencies in their own arguments. Proponents of withdrawal point out that American firms can do little to overcome apartheid because they employ only a small percentage of the local work force, because their efforts can be readily contained by the South African government, and because their attempts to raise wages, expand training, or improve social conditions will be outweighed by the taxes they pay, the goods they supply, and the legitimacy that their very presence confers upon the Afrikaner regime.

Opponents of withdrawal respond with equal force that the departure of U.S. firms will accomplish nothing because their facilities will be easily taken over by the South African government or by local or foreign investors. They also maintain that the need to import strategic materials, and other geopolitical considerations, will have much more to do with determining Washington's foreign policy than the presence of American investment. Other critics argue that shareholder pressures will never succeed in forcing American firms to withdraw and that the better strategy is to press for the more realistic goal of persuading such companies to improve employment and social conditions. Some observers, such as Andrew Young, believe that U.S. firms have special leverage because the South African government will be tolerant of their efforts to break apartheid rules in ways that establish precedents for other companies to follow.

In the end, there is no sure answer to this debate. We lack the wisdom or the prescience to know how social change will occur, especially in a country so unlike our own. Since United States companies make up less than two percent of the total South African economy, it is even possible that nothing that American firms can do will have a perceptible effect on the outcome.

In view of these uncertainties, it is not surprising that black South Africans are likewise divided on the issue. Oliver Tambo of the African National Congress illustrates the position of one group of black leaders: "We demand total isolation of the racist regime—no investment and withdrawal of existing investment." On the other hand, Chief Gatsha Buthelezi, who has openly castigated former Prime Minister Vorster and the entire

Afrikaner regime, nevertheless takes a different view of corporate withdrawal: *

Some of your superliberals in America have got the whole issue upside down. They seem to think it is immoral for American companies to invest here, but irresistably profitable. The truth is the opposite. It is morally imperative that American firms remain active here—and support us in our struggle. . . . Foreign investment creates jobs. Jobs bring money to the blacks, who are by far the majority of all industrial labor—71.6%, to be precise. Money means power. And working in industry also gives the black man the training and experience that he will need to assume his rightful place in our country. . . . As the process continues, the role of blacks in South African industrial management will become critical, which will give us more and more economic and political leverage.

One may choose to agree with Tambo or with Buthelezi, but a division of opinion clearly exists.** In the words of American columnist William Raspberry, writing from Capetown:

. . . Students at Harvard University are demanding that the school's endowment immediately withdraw its South African investments. . . .

But if the Harvard students find the question easy, black South Africans are by no means unanimously agreed. One reason, of course, is the fact that it is almost literally treasonable for a South African to advocate disinvestment, so unless he knows and trusts you, he isn't quick to take foolish chances.

That isn't the whole story, however. South African blacks, who are thoroughly disgusted with this country's policies and unafraid to say so will, surprisingly often, stop short of urging the pullout of American-based multinationals. . . .

Again and again—particularly from those who work regularly, even at marginal jobs—one hears a virtual plea against disinvestment.

South African workers who oppose withdrawal presumably fear that black employees will lose their jobs. Proponents of total divestment may respond that such unemployment is a necessary step in producing economic pressure, instability, and unrest that will eventually result in the overthrow of the apartheid regime. But it is one thing to advocate these misfortunes if one will personally share in the consequences and another to

* Proponents of withdrawal sometimes argue that Buthelezi is a person of little consequence who must have been co-opted by the Afrikaner regime. This view is contradicted by Buthelezi's frequent criticism of Afrikaner officials. In addition, he is the leader of the largest tribe (Zulu) in South Africa and is reported by a 1978 opinion survey carried out by a West German institute to be by far the most popular politician among all blacks. Buthelezi is now the head of Inkatha, a new organization composed of more than two hundred thousand black workers, which seeks to monitor foreign firms and insure compliance with commitments to improve the employment opportunities and social conditions of nonwhite employees.

press for such hardships from the security of an American university. To quote Alan Paton:

No person in my position, living in conditions of freedom from want, hunger, etc., has any moral right whatever to suggest a course which would, for example in the city of Port Elizabeth alone, put thousands of black people out of work.

While Paton's view may be open to dispute, those at Harvard who advocate total withdrawal should feel obliged, at the very least, to make a powerful showing that any hardships they envisage will eventually bring real improvements to the lives of those who will have to endure the consequences. In view of all the uncertainties, I do not believe that such a showing can be made.

Even if withdrawal were the proper course to overcome apartheid, it is extremely doubtful that the sale of our shares would succeed in persuading American companies to depart. Neither experience nor common sense offers support for the proposition that divestment will initiate a pattern of events that will somehow force American companies to withdraw. Harvard may be held in high regard as an academic institution, but it will command much less respect if it takes political stands on matters unrelated to education, especially among businessmen who regard these stands as

** One must be cautious about much of the evidence cited in this debate. On the one hand, blacks may be punished for advocating withdrawal and thus may be reluctant to speak clearly on the issue. On the other hand, proponents of withdrawal often claim support from individuals and organizations both in America and South Africa on the basis of very dubious evidence. For example, although Stephen Biko's name is often mentioned as opposing all foreign investment, the clearest statement I have read in which he addresses the issue is the following response which he gave under oath to a lawyer defending other black leaders in a case arising in 1976:

Q. And what would your desires have been as far as that investment goes?

A. [Biko] Our desire was that an ideal form of operation in this country by foreign investors is one which negates the given concepts within White society about the Black man, which reduced them to the position of completely nonskilled workers who are merely an extension of the machine. *We wanted foreign investors to help in the buildup of the humanity of the Blacks, to give them opportunity for training in technical spheres, to recognize to some extent trade union work within the firms, to give the Blacks positions of responsibility within the firms, in a sense to encourage humanity amongst Blacks who are employed by them, negating the whole effect of apartheid on Blacks in this country.* [Emphasis added.]

Q. Yes, and if they did not do that, what would you then like to have?

A. [Biko] Well, we just felt that they are in a sense selling out on us, and they might as well get out.

the product of student protest and campus unrest. Selling stock would doubtless give rise to publicity, but publicity is unlikely to force corporations to act against their economic interests, especially when there are plenty of people who believe that withdrawal is not the wisest tactic to overcome apartheid.

Divestment may also be less effective than other methods of changing corporate behavior. Universities may not be able to influence corporations whatever they do, but most experienced observers believe that the best available means of persuasion is to vote as a shareholder and continue to communicate in other ways with management. Although shareholder resolutions rarely attract great support, they have probably helped to persuade American companies to pay closer attention to the employment and social conditions of their nonwhite workers in South Africa. On the other hand, we are likely to accomplish nothing by selling our stock except to lose our status as shareholders and pass whatever influence we have to investors who care little or nothing about apartheid. If other concerned institutions were to follow this course, we would soon be left with no shareholders actively interested in pressing corporations to adopt more enlightened policies.

In conclusion, proposals to sell the stock of American corporations in South Africa raise all of the objections I discussed in my first letter, including the virtual certainty of imposing substantial costs on our academic programs.* In light of these objections, those

* According to Harvard's Advisory Committee on Shareholder Responsibility (ACSR) the brokerage fees required to sell our shares might range from \$5.7 million to \$16.5 million. Further losses would result from forbidding our endowment managers to buy stock in the 350 U.S. corporations doing business in South Africa, many of which are among the most attractive investment opportunities available to our financial managers. The ACSR estimates that these costs could run from \$4.8 million to \$9.8 million each year, although these numbers have been criticized as excessive and must be considered as very rough approximations. Other private universities have also estimated that total divestment would cause substantial losses. Stanford, Yale, and Princeton have indicated that one-time transaction costs would range from \$1.4 million to \$6.2 million for portfolios approximately one third the size of Harvard's. Princeton suggests that the continuing costs could run to \$3.5 million per year. Stanford has not provided an estimate of continuing costs but notes that "it would be unrealistic to expect that our managers could continue to produce a superior return given these constraints." Taking account of the total effect of divestment on the portfolio and on gifts to the university, the Princeton treasurer concluded in 1978 that the annual reduction in income "would almost certainly be much more [than \$2 million] probably closer to \$5 or \$10 million, and conceivably even more than that."

who urge total divestment as a means of overcoming apartheid can make a plausible case only if they can show that *all* of the following propositions are likely to be correct:

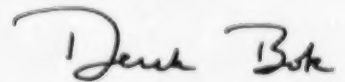
1. The withdrawal of American companies will help materially in overcoming apartheid. (Otherwise there is no adequate purpose to justify the drastic step of divestment.)
2. Corporate withdrawal will invariably contribute more to the defeat of apartheid than an effort on the part of American companies to improve the wages, employment opportunities, and social conditions of nonwhite workers. (If not, the proper course is to vote our shares in appropriate cases for improvements in employment and social policies.)
3. Selling Harvard's stock has a strong probability of persuading American firms to leave South Africa. (If not, one cannot justify the heavy costs and other disadvantages of divestment.)
4. Divestment is a substantially more effective way of inducing companies to withdraw than continuing to vote our shares and communicate with management in other ways. (Unless this is true, we should proceed by voting our shares rather than by selling them.)
5. It is permissible for the Harvard Corporation to divert substantial University resources to combat apartheid in this manner even though these resources were not entrusted to Harvard for such purposes.

In reality, every one of these propositions is highly doubtful, and the possibility that *all* of them are valid seems extraordinarily remote. The departure of American corporations could well have little or no effect on apartheid, because their operations are likely to be taken over either by South African businessmen or by foreign investors and because there are strong factors other than investments that affect U.S. policy toward South Africa. Furthermore, black South Africans, as well as observers in this country, are sharply divided on whether withdrawal will do more to overcome apartheid than improving employment and social conditions—and it seems far-fetched to believe that any of us at Harvard can have the wisdom to resolve this issue with great confidence. In addition, the hope that selling our stock will somehow set off a chain reaction that forces American firms to withdraw seems highly speculative at best. Finally, most persons with experience in business

do not believe that divestment offers as effective a means of changing corporate behavior as continuing to vote our shares and communicating as a stockholder with management. As Anthony Lewis observed last week: "The most effective thing a university can do is to use its voice and vote to influence corporate policy."

Even if all the preceding propositions could be accepted, it would still be hard to justify the use of Harvard's resources to overcome apartheid. After all, the Corporation has a legal and moral responsibility to administer Harvard's resources to further the normal academic purposes of the University and not to support causes or combat injustices for which we are not directly responsible. Trustees who would sell a university's shares to further such causes run a grave risk of legal liability for abusing their fiduciary responsibilities. In fact, the attorney general of Oregon and counsel to several universities have already issued opinions to the effect that trustees who vote for divestment will be liable for any financial losses that result. It would clearly be an abuse of trust to contribute a significant amount of Harvard's funds for the benefit of other endeavors to combat suffering and oppression, such as human rights organizations and hunger action groups. How, then, can we justify a decision to risk imposing heavy costs on the University in order to fight against apartheid?

As an investor, Harvard has declared its opposition to the South African regime and has pledged itself to vote on shareholder resolutions in the manner best calculated to overcome apartheid. I believe that these actions represent the most ethically responsible course for Harvard to take. In contrast, total divestment would almost certainly cause the University to divert millions of dollars in pursuit of a strategy that is legally questionable, widely disputed on its merits, and very likely to prove ineffective in achieving its objectives. Under these circumstances, I find it hard to avoid the conclusion that divestment is an extraordinary proposition that would not receive serious consideration were it not for the passions that are so understandably aroused by apartheid and all its attendant injustices.



Derek C. Bok

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